

1 MILFORD PLANNING BOARD PUBLIC HEARING
2 March 26, 2013 Board of Selectmen's Meeting Room, 6:30 PM

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4 Present:

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6 **Members:**

7 Janet Langdell, Chairperson
8 Kathy Bauer
9 Chris Beer
10 Steve Duncanson
11 Judy Plant
12 Tom Sloan

Staff:

Jodie Levandowski, Town Planner
Shirley Wilson, Recording Secretary
Zach Knowles, Videographer

Excused:

Paul Amato
Malia Ohlson, Alternate
Susan Robinson, Alternate

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17 **MINUTES:**

- 18 1. Approval of minutes from the 2/19/13 meeting.
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21 **NEW BUSINESS:**

- 22 2. **John Samonas – Nashua St – Map 44, Lot 11.** Public hearing for a subdivision to create one new
23 developable lot in the ICI District, without frontage on a Class V road or better, as approved by the Milford
24 ZBA. *(New application-TF Moran, Tabled from 3/19/13)*
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27 **OTHER BUSINESS:**
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Chairperson Langdell called the meeting to order at 6:30PM. She then explained that due to last week's inclement weather all applications for the regularly scheduled meeting were tabled by email on 3/19/13. She then went on to explain the process for the public hearing, introduced the Board and Staff, and read the agenda.

MINUTES:

S. Duncanson made a motion to approve the minutes from the 2/19/13 meeting. K. Bauer seconded. C. Beer and T. Sloan abstained and all else in favor.

NEW BUSINESS:

John Samonas – Nashua St – Map 44, Lot 11. Public hearing for a subdivision to create one new developable lot in the ICI District, without frontage on a Class V road or better, as approved by the Milford ZBA. This is a new application, tabled from 3/19/13.

No abutters were present; however, there was representation from the Conservation Commission
Audrey Fraizer, Chairperson
Chris Costantino, Secretary

Chairperson Langdell recognized:
Jason Hill, TF Moran

S. Duncanson made a motion to accept the application. J. Plant seconded and all in favor. S. Wilson read the abutters list into the record. C. Beer made a motion that this application did not present potential regional impact. S. Duncanson seconded and all in favor.

J. Hill presented revised plans dated 3/18/13 and explained the project to subdivide the 8.5 acre parcel in the ICI District. It is a long lot with existing improvements at the front portion for a restaurant. Access will be from a shared access easement on the Walgreen's lot, 44/13-1 to service both lots and we plan to extend the existing driveway and put in the utilities. The water and sewer service will be extended from Nashua St; the sewer by forced main and water and electric to follow the same path. The site is dissected by wetlands down the middle and the property will be divided into a 1.5 acre piece in front and a 6.5 acre wooded piece in back. The property is developable land and although there is a wetland complex on the back section and a piece that is affected by the groundwater Protection District, those will be looked at when, and if, the applicant considers actually developing that piece. At this time, there is no user or proposed use, but possibly in the future the development would be consistent with the constraints of the property and the overall zoning. The only relief required was a variance, which was granted by the ZBA in December, for a lot without frontage and we are not seeking any waivers. J. Langdell clarified that the variance was required to be able to subdivide the parcel without frontage on a Class VI road or better. J. Hill explained that the overall master plan for this lot was set up during the development process in 2006-2008 and planning considerations were put in place for future development. J. Langdell added that the wetland between the two pieces of this property is actually labeled as a pond on the plan. J. Hill confirmed that there is standing water and it is a natural pond, but also said the FEMA mapping doesn't indicate any floodplain areas on the property.

J. Langdell read interdepartmental staff comments from the staff memo and correspondence from the Conservation Commission, both dated 3/19/13. She noted that the 2008 plan referenced in the Conservation Commissions memo was for a conceptual discussion relative to the possibility of putting some type of workforce housing on that lot, but the plan did not go any further. J. Hill said we respect the Commission's concerns and are aware that those regulations exist on the property. We will have to conform to those regulations but those are development constraints which will affect the future use and layout of the property. The Planning Board would generally address those considerations at the time of site plan application. Creating a subdivision doesn't change or create impacts to the Groundwater Protection Ordinance or the wetlands. J. Langdell said the ZBA minutes referenced discussion about the marketability of the two lots themselves, especially the front lot pertaining to insurance and sales. J. Hill said that's probably true in the marketplace and is motivation for this subdivision; however, it is Mr. Samonas's piece of land and he can divide his land. In general, the town and the owner, will benefit from this process and when or if it becomes developed, the owner would be obligated to come before the Zoning Board as part of the major site plan process.

84 Chairperson Langdell opened the hearing to the public.

85
86 A. Fraizer said we feel that subdividing this lot will create a hardship for whoever purchases it. The significant
87 wetland crossing would create a very expensive proposition to develop the lot and we would like to see the buffer
88 area remain undisturbed. There will also be a snow removal issue due to the groundwater protection area.
89 Although buildable, we feel that the town would be creating a hardship for the future owner because it would be
90 difficult and expensive.

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92 K. Bauer said this property is in the level II Groundwater Protection District. C. Costantino said it would be best
93 to refer to the ordinance for the specifics, but in general the overlay district is more restrictive and requires
94 additional permitting. J. Langdell referenced Article VI, Section 6.01.0 which spells out the specific standards
95 and permit criteria that must be met for any development to occur on that site. In addition there are also Wetland
96 and Buffer Ordinances that would have to be adhered to as well as State DES requirements, so there are a number
97 of protections in place if development were to happen.

98
99 C. Beer inquired if the site could still be developed as is. A. Fraizer said yes; it would still require the same type
100 of regulations and approvals. C. Beer asked how subdividing the lot would change that and why the Conservation
101 Commission is against subdividing these lots. A. Fraizer replied it doesn't change anything, but in the past, we've
102 had to work with lots that have been created which were very difficult to build on and we've had to deal with
103 owners and abutters who got very upset. In this case, we're trying to prevent that from happening. C. Beer said
104 development on the rear portion of this lot was always planned and this subdivision is not going to change that.

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106 Chairperson Langdell closed the public portion of the meeting.

107
108 K. Bauer said in line with what the Conservation Commission has noted, when you look at subdivisions, you have
109 to look at what kind of lot you are creating. According to the commission, the wetlands cover at least 1/3 of the
110 new property and half of the back piece lies within the Level II Groundwater Protection District. If the Board
111 does approve this subdivision, the applicant has to go before the ZBA for relief from wetlands and buffer
112 disturbance to develop the lot because I can't see any place where they can avoid impacting the wetlands. In my
113 own opinion it would be wrong to subdivide this difficult, if not impossible lot.

114
115 T. Sloan thanked the Conservation Commission. I can sympathize with what they anticipate to be difficult
116 development in the future and also respect Ms. Bauer's opinion, in its entirety, but at the same time feel that each
117 person has a right to attempt to develop their property if they have the means and resources to do so. Maybe the
118 applicant is a willing seller and there might be some funds available for the commission to purchase an easement
119 or full property rights but the proposal before us would work with wetland impact. The impact would likely be
120 minimized and there is really nothing preventing somebody from developing a piece of property that will be
121 difficult to develop. It may not be the best thing for that property, but I couldn't vote no in good conscience, for
122 the application before us.

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124 J. Langdell read the staff recommendations from the memo dated 3/19/13.

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126 T. Sloan suggested that note 5 be revised to include, local ZBA approval is required for wetland and buffer
127 impacts. J. Langdell suggested a note that this parcel is governed by the Groundwater Protection District and
128 subject to those regulations. J. Hill suggested keeping the notes less specific and discussion followed.

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130 K. Bauer commented that she takes the Groundwater Protection Ordinance and the Wetland Conservation
131 Ordinance very seriously. These overlay districts override any underlying zoning and are for the protection of our
132 lands. One of the steps that has to be taken which also aids in the protection is that development would have to go
133 before the ZBA and hopefully the client is aware that relief is not guaranteed by the ZBA. J. Langdell said this
134 area of town has been subject to reviews since 2006 for a variety of conceptual and final plans and the same
135 people have been involved, so she trusts that they are aware of the difficulties they may encounter down the road.
136 They have the right to go forward, provided that they meet state, local and potentially, federal regulations. I
137 clearly can see how these two lots, detached from each other, might in fact make the front lot more marketable.
138 The pad for the proposed restaurant is now five years old and we've not seen any activity there, so Milford could

139 potentially benefit from having a business want to purchase just that piece to build, bringing in more tax revenue
140 and potentially more jobs. There's an economic development impact here as well.

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142 T. Sloan made a motion to conditionally approve the application subject to the staff recommendations as outlined
143 and discussed. D. Duncanson seconded. T. Sloan, J. Langdell, C. Beer, J. Plant and S. Duncanson voted in the
144 affirmative with K. Bauer voting in the negative. The motion carried by a vote of 6-1.

145
146 **OTHER BUSINESS:**

147 J. Langdell brought up the distinguished site award program and listed past recipients; Ciardelli Fuel, Milford
148 Veterinary Hospital, and the French House. She encouraged the public to participate and submit nomination
149 forms by the end of May. More information can be found on the town's website at www.milford.nh.gov.

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151 The meeting was adjourned at 7:15pm.

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154 MINUTES OF THE MAR 26, 2013 PLANNING BOARD PUBLIC HEARING APPROVED APRIL 16, 2013
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